

EB 04-381

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

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Office of the Secretary

VIA FACSIMILE AND U.S. MAIL

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Re: *Florida Cable Telecommunication Ass'n Inc. v. Gulf Power Co.*,  
File No. PA 00-004

Dear Counsel:

This letter memorializes the rulings made in the above-captioned matter during a telephone conference on December 8, 2003. Pursuant to 47 C.F.R. § 1.106(k)(1) and (2), the Enforcement Bureau grants in part the Petition for Reconsideration that Gulf Power Company ("Gulf Power") filed on June 23, 2003.<sup>1</sup> Specifically, the Bureau orders further proceedings as detailed in this letter ruling, and otherwise defers ruling on the merits of the Petition for Reconsideration pending completion of those proceedings. See 47 C.F.R. § 1.106(k)(1) and (2).


By the close of business on December 29, 2003, Gulf Power will file and serve a submission describing with particularity the evidence it wishes to proffer in an effort to satisfy the standard articulated by the United States Court of Appeals for the Eleventh Circuit relating to "compensation above marginal cost." See *Alabama Power Co. v. FCC*, 311 F.3d 1357, 1370-71 (11<sup>th</sup> Cir. 2002), *cert. denied*, 124 S. Ct. 50 (2003). Gulf Power's submission further should explain, with respect to each category of evidence, the pertinence of that information to the Eleventh Circuit's standard. By the close of business on January 19, 2004, Florida Cable Telecommunications Association will file and serve a response to Gulf Power's submission.

This letter ruling is issued pursuant to sections 4(i), 4(j), and 224 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 224, section 1.106 of the Commission's

<sup>1</sup> See Gulf Power Company's Petition for Reconsideration and Request for Evidentiary Hearing, File No. PA 00-004 (filed June 23, 2003) ("Petition for Reconsideration").

rules, 47 C.F.R. § 1.106, and the authority delegated in sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311.

Sincerely,

  
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